

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

In re

Chapter 9

CITY OF DETROIT, MICHIGAN,

Case No. 13-53846

Debtor.

Hon. Steven W. Rhodes

Thomas J. Cipollone,

Appellant.

v.

City of Detroit, Michigan,

Appellee.

FILED  
2014 DEC 10 P 1:19  
U.S. BANKRUPTCY COURT  
E.D. MICHIGAN - DETROIT

APPELLANT THOMAS J. CIPOLLONES DESIGNATION OF  
THE CONTENTS OF THE RECORD AND STATEMENT OF ISSUES ON APPEAL

I am filing and serving this Designation and Statement to comply with Fed. R. Bnkr. P. 8009(a)(1) [Effective December 1, 2014]. The Designation and Statement relate to the appeal I started by filing a Notice of Appeal (Doc. No. 8462) on November 25, 2014.

I. DESIGNATION OF RECORD ON APPEAL.

Item No.	Date Filed	Docket No.	Description
1	7/18/13	0001	Voluntary Petition for City of Detroit, Michigan
2	12/5/13	1945	Opinion Regarding Eligibility
3	2/21/14	2708	Plan for the Adjustment of Debts of the City of Detroit

Item No.	Date Filed	Docket No.	Description
4	2/21/14	2709	Disclosure Statement with Respect to Plan for the Adjustment of the Debts of the City of Detroit
5	3/31/14	3380	Amended Plan for the Adjustment of Debts of the City of Detroit
6	3/31/14	3382	Amended Disclosure with Respect to Amended Plan for the Adjustment of Debts of the City of Detroit
7	3/31/14	3390	John P. Quinn's Objections to Disclosure Statement
8	3/31/14	3392	Appearance of John P. Quinn on his Own Behalf and Consent to Electronic Service
9	4/15/14	4140	Second Amended Plan for the Adjustment of Debts of the City of Detroit
10	4/16/14	4141	Second Amended Disclosure Statement with Respect to Second Amended Plan for the Adjustment of Debts of the City of Detroit
11	4/25/14	4271	Third Amended Plan for the Adjustment of Debts of the City of Detroit
12	4/25/14	4272	Third Amended Disclosure Statement with Respect to Second Amended Plan for the Adjustment of Debts of the City of Detroit
13	5/5/14	4391	Fourth Amended Disclosure Statement with Respect to Fourth Amended Plan for the Adjustment if the Debts of the City of Detroit
14	5/5/14	4392	Fourth Amended Plan for the Adjustment if the Debts of the City of Detroit
15	5/26/14	5034	Consolidated Reply to Certain Objections to Confirmation of Fourth Amended Plan for the Adjustment of Debts of the City of Detroit
16	5/27/14	5049	John P. Quinn's Attempted Compliance with Order Regarding Identifying Legal Issues Relating to Confirmation
17	7/1/14	5723	John P. Quinn's Objections to Fourth Amended Plan of Adjustment
18	7/11/14	5949	Thomas J. Cipollone's Objections to Fourth Amended Plan of Adjustment

Item No.	Date Filed	Docket No.	Description
19	7/22/14	6197	Joint Motion of Objecting Creditors Michael J. Karwoski and John P. Quinn for Briefing Schedule and Hearing on Certain of Movants' Objections to Fourth Amended Plan of Adjustment
20	7/25/14	6257	Fifth Amended Plan for the Adjustment if the Debts of the City of Detroit
21	7/28/14	6379	Corrected Fifth Amended Plan for the Adjustment of the Debts of the City of Detroit
22	8/4/14	6508	Official Committee of Retirees' Memorandum of Law in Support of Confirmation of Fifth Amended Plan for Adjustment of Debts Filed by the City of Detroit, Michigan
23	8/20/14	6908	Sixth Amended Plan for the Adjustment of Debts of the City of Detroit
24	9/5/14	7303	Consolidated Response to Certain <i>Pro Se</i> Objections to Confirmation of the Sixth Amended Plan for the Adjustment of Debts of the City of Detroit
25	9/16/14	7502	Seventh Amended Chapter 9 Plan for the Adjustment of Debts of the City of Detroit
26	10/17/14	7995	Third Order Admitting Exhibits including Exhibit containing Annuity Information from GRS Informational Meeting
27	10/21/14	8029	Notice of Filing of Draft Eight Amended Plan for the Adjustment of the Debts of the City of Detroit,
28	10/22/14	8045	Eighth Amended Plan for the Adjustment of the Debts of the City of Detroit
29	10/31/14	8154	Notice of Filing Proposed Order Confirming Eighth Amended Plan for the Adjustment of Debts of the City of Detroit, including attached proposed order
30	11/11/14	8249	Notice of Filing Revised Proposed Order Confirming Eighth Amended Plan for the Adjustment of Debts of the City of Detroit, including attached proposed order
31	11/12/14	8272	Order Confirming Eighth Amended Plan of Adjustment of Debts of the City of Detroit

Item No.	Date Filed	Docket No.	Description
32	11/21/14	8369	John P. Quinn's Notice of Appeal from Order Confirming Eighth Amended Plan of Adjustment
33	11/24/14	8413	John P. Quinn's Motion for Partial Stay Pending Appeal
34	11/25/14	8462	Thomas J. Cipollone's Notice of Appeal from Order Confirming Eighth Amended Plan of Adjustment
35	11/26/14	8489	State of Michigan's Consolidated Response in Opposition to Motions to Stay Confirmation Order Pending Appeal
36	11/26/14	8496	City of Detroit's Consolidated Objection to Appellants' Motions for Stay Pending Appeal
37	12/1/14	8533	Order Denying Motions for Stay Pending Appeal
38	Not yet entered.	Not yet docketed	Opinion on Confirmation of Eighth Amended Plan for the Adjustment of Debts of the City of Detroit

I reserve the right to supplement or amend this Designation to the extent permitted by law or court rule.

## II. STATEMENT OF ISSUES ON APPEAL.

I intend to raise the following issues on appeal:

1. Did the bankruptcy court err as a matter of law by confirming the Eighth Amended Plan for the Adjustment of the Debts of the City of Detroit ("Plan") even though, by attempting to impose the ASF recoupment on claims whose holders have not individually agreed to its application to their claims, the Plan imposes non-consensual less favorable treatment on those claims than on other claims in class 11, in violation of 11 U.S.C. § 1123(a)(4)?

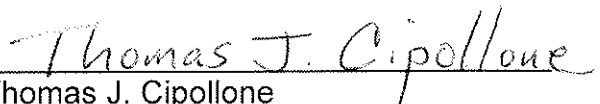
2. Did the bankruptcy court err as a matter of law by confirming the Plan even though it purports to adjust not only the City's liability, if any, on the claims included in Class 11, but also the liability of the General Retirement System ("GRS"), which is not a debtor in this case, on those claims, in violation of 11 U.S.C. § 941?
3. Did the bankruptcy court err as a matter of law by directing GRS to act as an agent of the City in deducting the Annuity Savings Fund Excess Amount from the Annuity Savings Fund account of each ASF Current Participant?
4. Did the bankruptcy court err as a matter of law by relieving GRS, which is not a debtor in this case, from liability for deducting the Annuity Savings Fund Excess Amount from the Annuity Savings Fund account of each ASF Current Participant?
5. Did the bankruptcy court err as a matter of law by enjoining all individuals affected by the ASF recoupment from commencing any proceedings against the GRS and its trustees, officers, employees or professionals, none of whom are debtors in this case, arising from GRS's compliance with the Plan or the Order Confirming Eighth Amended Plan for the Adjustment of Debts of the City of Detroit?
6. Did the bankruptcy court err as a matter of law by allowing an illegal act, which was the illegal method of computing a new and retroactive interest rate used by the City as the basis for the ASF recoupment, to remain as

part of the Eighth Amended plan?

7. Did the bankruptcy court err as a matter of law by allowing a recoupment of a purported fraudulent transfer beyond the statute of limitations permitted by law?
8. Did the bankruptcy court err as a matter of law by allowing a recoupment of a purported fraudulent transfer into the ASF when the burden of proof was not met to prove such fraudulent transfer?
9. Did the bankruptcy court err as a matter of law by allowing a recoupment of a purported fraudulent transfer into the ASF when no specific finding of such purported fraudulent transfer was made?
10. Did the bankruptcy court err as a matter of law by allowing a recoupment of a purported fraudulent transfer into the ASF when the burden of proof was not met to prove that the minimum interest rate earned by ASF participants was illegal, which was the purported basis for the City to create a new but illegal retroactive annuity interest rate formula for the ASF recoupment?
11. Did the bankruptcy court err as a matter of law by allowing a recoupment of a purported fraudulent transfer using a retroactive formula for determining an interest rate lower than the rate actually earned when application of such retroactive formula would violate the Constitutional prohibitions against ex post facto laws, the taking of property and denial of Due Process?

12. Did the bankruptcy court err as a matter of law by not allowing me to participate in the hearing on confirmation of the Eighth Amended Plan by questioning witnesses called by other parties, violating my right to Due Process as well as other rights?
13. Is each of the errors mentioned in Issues 1-12, above, reversible?

In the course of discussing these issues I may address related issues and sub-issues. I reserve the rights to raise additional issues and to supplement or amend this Statement the extent permitted by law or court rule.

  
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Dated: December 10, 2014

CERTIFICATE OF SERVICE

I certify that on December 10, 2014, I am filing a hard copy of the above document with the Clerk of the Court. I understand the Clerk will promptly scan that hard copy and file the resulting pdf version using ECF, thus effecting service on all persons entitled to service in this action.

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Dated: December 10, 2014